

EXHIBIT A

Travis Manfredi

From: Travis Manfredi
Sent: Tuesday, December 13, 2022 12:37 PM
To: Hurst, Annette L.; Joseph Gratz
Cc: Joseph Saveri; Cadio Zirpoli; Matthew Butterick; Amara Getzell; Cariello, Christopher J.; Oxley, William W.; mjacobs@mofo.com
Subject: RE: Does v. GitHub, Microsoft, OpenAI
Attachments: 2022-12-13 Stipulation Regarding Protective Order and Names.docx; 2022-12-13 Stipulated Protective Order (based on ND Cal Patent Model Order).docx

Hello Annette & Joe G.:

Thank you. Regarding your request that we disclose the plaintiffs' identities, please see the attached stipulation and stipulated protective order.

We would like to meet and confer regarding the above as well as the draft consolidation and scheduling stipulation. Please share availability so we can schedule a call or video meeting.

Sincerely,
Travis

From: Hurst, Annette L. <ahurst@orrick.com>
Sent: Thursday, December 8, 2022 10:08 AM
To: Travis Manfredi <tmanfredi@saverilawfirm.com>; Joseph Gratz <JGratz@durietangri.com>
Cc: Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>; Amara Getzell <Agetzell@saverilawfirm.com>; Cariello, Christopher J. <ccariello@orrick.com>; Oxley, William W. <woxley@orrick.com>; mjacobs@mofo.com
Subject: RE: Does v. GitHub, Microsoft, OpenAI

External (ahurst@orrick.com)

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Travis:

We have revised your stipulation to reflect intervening events and our current proposal, the changes are tracked in the attached.

First, the stipulation needs to provide some mechanism for resolution of the *Doe 1* case in light of events in the *Doe 3* case. The easiest way to do this is consolidation. We are proposing consolidation for purposes of discovery and motion practice, as reflected in the attached stipulation. If you disagree with this, please explain why.

Second, it is premature to discuss discovery when plaintiffs have not even identified themselves. We have repeatedly requested that you identify the plaintiffs. They should have been identified in the complaints. The stipulation provides an agreed deadline for you to do so. If you are refusing to identify the plaintiffs, please explain why.

Third, given the complexity of the pleading, the holiday schedule and the number of people involved at the clients in representing multiple defendants, our clients feel strongly about the longer extension. I have modified the dates to reflect Judge Tigar's civil motion practice schedule. This is likely to be a long case. Quarreling over an additional 10 days that are being requested as a courtesy by counsel because of holidays is not going to set a good tone at the outset. We have not objected to your request for a lengthy period to respond to a motion to dismiss. Certainly, plaintiffs' counsel will also find themselves needing some other courtesy at some point in the future. The total extension of time to respond to the *Doe 3* complaint is about sixty days, which is entirely appropriate in a case of this magnitude.

Annette

From: Travis Manfredi <tmanfredi@saverilawfirm.com>

Sent: Wednesday, December 7, 2022 3:42 PM

To: Hurst, Annette L. <ahurst@orrick.com>; Joseph Gratz <jgratz@durietangri.com>

Cc: Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>; Amara Getzell <Agetzell@saverilawfirm.com>; Cariello, Christopher J. <ccariello@orrick.com>

Subject: RE: Does v. GitHub, Microsoft, OpenAI

Dear Annette & Joe G.:

We have moved our earlier proposed date for Defendants' response from January 13th to the 17th. That is 71 days after the first complaint was served. We believe this is generous and more than adequate to account for the holiday season.

Along with our proposed extension for your responsive pleading, we have also proposed March 3 for our opposition and April 2 for the reply. Please let us know your position.

Also, the Court has set March 14, 2023, for the CMC. Pursuant to Rule 26, the conference should occur as soon as practicable and in no event later than February 22. Please provide us with alternative dates which are convenient for you.

We would also like you to clarify your position regarding a stay of discovery pending resolution of the pleadings. Please advise.

Finally, we expect a protective order will be needed in this case. Judge Tigar's Standing Order indicates a preference for the ND Cal.'s model stipulated orders. See Standing Order ¶ H. We will be proposing a form shortly.

If there are other matters you want to raise, please let us know.

Sincerely,

Travis Manfredi

Associate
(they/any)

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LAW FIRM

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F 415.395.9940

From: Hurst, Annette L. <ahurst@orrick.com>
Sent: Wednesday, December 7, 2022 1:38 PM
To: Travis Manfredi <tmanfredi@saverilawfirm.com>; Joseph Gratz <JGratz@durietangri.com>
Cc: Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>; Amara Getzell <Agetzell@saverilawfirm.com>; Cariello, Christopher J. <ccariello@orrick.com>
Subject: RE: Does v. GitHub, Microsoft, OpenAI

Folks:

Now that the cases have been related and assigned to Judge Tigar, we would like to proceed to get the response framework ironed out. We are willing to agree to your proposal of staying the Doe 1 case while the Doe 3 case proceeds (although we frankly don't understand why they shouldn't just be consolidated), but as we have previously expressed, we request a response date of January 27. Given the number of claims and the intervening holidays, this is not an unreasonable request.

Please advise.

Thank you.

Annette

From: Travis Manfredi <tmanfredi@saverilawfirm.com>
Sent: Friday, December 2, 2022 1:00 PM
To: Hurst, Annette L. <ahurst@orrick.com>; Joseph Gratz <JGratz@durietangri.com>
Cc: Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>; Amara Getzell <Agetzell@saverilawfirm.com>
Subject: RE: Does v. GitHub, Microsoft, OpenAI

Hello Annette and Joe G.:

Here is our revised proposal. Please provide us with your feedback. We are happy to schedule a call to discuss.

Best wishes,

Travis Manfredi
Associate
(they/any)

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From: Hurst, Annette L. <ahurst@orrick.com>
Sent: Thursday, December 1, 2022 11:29 AM
To: Travis Manfredi <tmanfredi@saverilawfirm.com>; Joseph Gratz <JGratz@durietangri.com>
Cc: Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>; Amara Getzell <Agetzell@saverilawfirm.com>
Subject: RE: Does v. GitHub, Microsoft, OpenAI

Thank you, Travis. As I'm sure you can imagine given the holiday, planning for a December 28 deadline versus a January 17-27 deadline is a materially different scenario, and we have to account for that immediately. As I understand it, plaintiffs were hoping for some accommodation on the briefing schedule on a motion to dismiss. If they continue to seek such an accommodation, then now would be the time to work all of that out.

From: Travis Manfredi <tmanfredi@saverilawfirm.com>
Sent: Thursday, December 1, 2022 8:52 AM
To: Hurst, Annette L. <ahurst@orrick.com>; Joseph Gratz <JGratz@durietangri.com>
Cc: Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>; Amara Getzell <Agetzell@saverilawfirm.com>
Subject: Re: Does v. GitHub, Microsoft, OpenAI

Hi Annette: Yes, we still plan to share a more comprehensive stipulation—as we discussed—once it is ready.

From: Hurst, Annette L. <ahurst@orrick.com>
Sent: Wednesday, November 30, 2022 1:50:41 PM
To: Travis Manfredi <tmanfredi@saverilawfirm.com>; Joseph Gratz <JGratz@durietangri.com>
Cc: Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>; Amara Getzell <Agetzell@saverilawfirm.com>
Subject: RE: Does v. GitHub, Microsoft, OpenAI

Travis – thanks for getting this done. Were you going to send us the complete proposal on what plaintiffs wanted in exchange for the longer extension we requested to January 27?

From: Travis Manfredi <tmanfredi@saverilawfirm.com>
Sent: Monday, November 28, 2022 10:38 AM
To: Joseph Gratz <JGratz@durietangri.com>; Hurst, Annette L. <ahurst@orrick.com>
Cc: Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>; Amara Getzell <Agetzell@saverilawfirm.com>
Subject: RE: Does v. GitHub, Microsoft, OpenAI

Hello Annette & Joe:

In the attached, the only change I've made is to add your signature blocks and the attestation at the end. If everything is in order, please confirm we have your consent to file and we will do so today.

Best wishes,

Travis Manfredi
Associate
(they/any)

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From: Joseph Gratz <JGratz@durietangri.com>
Sent: Monday, November 28, 2022 9:33 AM
To: Hurst, Annette L. <ahurst@orrick.com>; Travis Manfredi <tmanfredi@saverilawfirm.com>
Cc: Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>; Amara Getzell <Agetzell@saverilawfirm.com>
Subject: Re: Does v. GitHub, Microsoft, OpenAI

Likewise for OpenAI.

From: Hurst, Annette L. <ahurst@orrick.com>
Sent: Monday, November 28, 2022 9:30:39 AM
To: Travis Manfredi <tmanfredi@saverilawfirm.com>
Cc: Joseph Gratz <JGratz@durietangri.com>; Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>; Amara Getzell <Agetzell@saverilawfirm.com>
Subject: Re: Does v. GitHub, Microsoft, OpenAI

Travis this is fine with us. For Orrick you can just put me in the signature block for MSFT and GitHub. We won't file appearances until late today at soonest so I would say go ahead in the meantime.

Annette Hurst
Partner
Orrick Herrington & Sutcliffe

On Nov 27, 2022, at 8:03 PM, Travis Manfredi <tmanfredi@saverilawfirm.com> wrote:

Hello Annette & Joseph:

As Annette has requested, please see the attached stipulation extending the time for your clients to respond to the *Doe 1 v. GitHub* Complaint by thirty days. Please let us know if you have any edits or concerns.

Best wishes,

Travis Manfredi
Associate
(they/any)

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From: Hurst, Annette L. <ahurst@orrick.com>
Sent: Sunday, November 27, 2022 12:25 PM
To: Travis Manfredi <tmanfredi@saverilawfirm.com>

Cc: Joseph Gratz <JGratz@durietangri.com>; Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>

Subject: Re: Does v. GitHub, Microsoft, OpenAI

Hi Travis — we will need to get something on file tomorrow as the first answer is due. Given the new set of concerns that were raised in our discussion on Tuesday, I'm not confident that we will reach a comprehensive agreement when we do not yet have a new proposal. Can you send a stip memorializing our interim extension? Thanks.

Annette

Annette Hurst
Partner
Orrick Herrington & Sutcliffe

On Nov 22, 2022, at 4:58 PM, Travis Manfredi <tmanfredi@saverilawfirm.com> wrote:

Hi Annette:

Thank you. Tomorrow at 9am works for us. I'll send an invite.

Best wishes,

Travis Manfredi
Associate
(they/any)

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From: Hurst, Annette L. <ahurst@orrick.com>

Sent: Tuesday, November 22, 2022 2:42 PM

To: Travis Manfredi <tmanfredi@saverilawfirm.com>

Cc: Joseph Gratz <JGratz@durietangri.com>; Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>

Subject: Re: Does v. GitHub, Microsoft, OpenAI

Unfortunately I'm on a plane most of tomorrow. I could do 9 am but that's about it. Let me know if that works for you.

Annette Hurst
Partner
Orrick Herrington & Sutcliffe

On Nov 22, 2022, at 1:43 PM, Travis Manfredi
<tmanfredi@saverilawfirm.com> wrote:

Hi Annette:

We have some thoughts on the below but expect we should be able to come to an agreement on the particulars. Probably easiest to discuss on a quick call if possible. Do you have any time available tomorrow to talk? I can be flexible.

Best wishes,

Travis Manfredi
Associate
(they/any)

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From: Hurst, Annette L. <ahurst@orrick.com>
Sent: Tuesday, November 22, 2022 11:27 AM
To: Travis Manfredi <tmanfredi@saverilawfirm.com>
Cc: Joseph Gratz <JGratz@durietangri.com>; Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>
Subject: RE: Does v. GitHub, Microsoft, OpenAI

Hi Travis:

Joe G. and I have talked and we propose that the stipulation and proposed order provide as follows:

1. Plaintiffs and Defendants stipulate to relate the two cases;
2. Plaintiffs and Defendants stipulate to consolidate the two cases after the order to relate is entered;
3. Plaintiffs will file an Amended Consolidated Complaint within ____ days after the cases are consolidated;
4. Defendants will respond to the Amended Consolidated Complaint sixty days after it is filed or January 27, whichever is later.

We are also willing to just file a stipulation extending the time for response while we talk, but are deferring to your preference to only have to file one stipulation by laying out an entire proposal.

Thanks and let us know what you think.

Annette

From: Travis Manfredi <tmanfredi@saverilawfirm.com>
Sent: Monday, November 21, 2022 5:10 PM
To: Hurst, Annette L. <ahurst@orrick.com>
Cc: Joseph Gratz <JGratz@durietangri.com>; Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>
Subject: Re: Does v. GitHub, Microsoft, OpenAI

Hello Annette:

We have been in communication with OpenAI's counsel, Joe Gratz, regarding an extension. The dates in the stipulation are what we proposed to him. Happy to have a call with the three of us to come to a consensus. I'm available most of Tuesday and Wednesday. Or, if Defendants would like to discuss and propose a date that works, we can proceed from there over email.

If the timing of the holiday will preclude us from agreeing on a schedule before your clients' deadline, we will stipulate to an additional 30 days to respond to allow time to discuss. It is not our intention to jam you. But, our preference is to execute just one stipulation with a complete briefing schedule for responsive motions if feasible.

Regarding the two cases, we've moved to relate them and expect them to be consolidated. The stipulation accounts for this in an attempt to avoid unnecessarily duplicative work. We are open to edits to ensure your clients won't have to respond to both Complaints.

Regards,
Travis
(they/any)

From: Hurst, Annette L. <ahurst@orrick.com>
Sent: Monday, November 21, 2022 2:47 PM
To: Travis Manfredi <tmanfredi@saverilawfirm.com>
Cc: Joseph Gratz <JGratz@durietangri.com>; Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>
Subject: Re: Does v. GitHub, Microsoft, OpenAI

Thanks.

I'd prefer that we had a conversation rather than you simply sending me a document without any discussion. I think it makes a lot more sense to

resolve the question of the complaints before any response is required.

There ought not be two functionally identical pending actions. Maybe I'm missing something, but I don't understand why you don't dismiss one complaint and simply amend the other so there is a single pending action. Any amendment is still as of right at this point.

In all events, given the complexity of the issues as well as the intervening holidays, we'd prefer to have a response date at the end of January. I'd suggest January 27.

Please advise — I'm happy to discuss if you'd prefer we do so.

Annette Hurst
Partner
Orrick Herrington & Sutcliffe

On Nov 21, 2022, at 2:20 PM, Travis Manfredi
<tmanfredi@saverilawfirm.com> wrote:

Dear Counsel:

Attached please find a draft stipulation to extend the time for your clients to respond to the Complaints in *Doe 1, et al. v. GitHub, Inc., et al.*, No. 4:22-cv-06823-KAW (N.D. Cal.) and *Doe 3, et al. v. GitHub, Inc., et al.*, No. 3:2022cv07074-LB (N.D. Cal.). We welcome your feedback.

Best wishes,

Travis Manfredi
Associate
(they/any)

<[image001.png](#)>

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<2022-11-21 Stipulation re Extending Time to Respond to Complaints.docx>

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<2022-11-27 Stipulation re 30-Day Extension.docx>

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